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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR.	ATTORNEY DOCKET NO.
09/002,747	01/05/98	HORNE	D 042390, P5112

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LM01/0223

EXAMINER

GHEBRETTINSAE, T

ART UNIT	PAPER NUMBER
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2734

10

DATE MAILED: 02/23/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No. <b>09/002,747</b>	Applicant(s) <b>DAVID HORNE</b>
Examiner <b>TEMESGHEN GHEBRETIINSAE</b>	Group Art Unit <b>2734</b>

Responsive to communication(s) filed on Jan 12, 2000

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

### Disposition of Claim

Claim(s) 1-11 is/are pending in the application.  
Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 Claim(s) \_\_\_\_\_ is/are allowed.  
 Claim(s) 1, 3, 5, 6, 8, 10, and 11 is/are rejected.  
 Claim(s) 2, 4, 7, and 9 is/are objected to.  
 Claims \_\_\_\_\_ are subject to restriction or election requirement.

### Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.  
 The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.  
 The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.  
 The specification is objected to by the Examiner.  
 The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
 All  Some\*  None of the CERTIFIED copies of the priority documents have been  
 received.  
 received in Application No. (Series Code/Serial Number) \_\_\_\_\_  
 received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

Notice of References Cited, PTO-892  
 Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_  
 Interview Summary, PTO-413  
 Notice of Draftsperson's Patent Drawing Review, PTO-948  
 Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on 1/12/2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/002,747 is acceptable and a CPA has been established. An action on the CPA follows.
2. It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

1. Application number (checked for accuracy, including series code and serial no.).
2. Group art unit number (copied from most recent Office communication).
3. Filing date.
4. Name of the examiner who prepared the most recent Office action.
5. Title of invention.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,3,5-6,8,10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crespo et al (5,173,923) in view of Gudmundson (5,295,153).

Crespo et al discloses a CDMA spread spectrum communication system in which a PN code (sequence/s) are assigned to each transmitter and the information signals are spread and despread using the assigned unique PN codes. (See abstract and col.2, lines 13-54). Crespo differs

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from the present invention in that he is silent in terms of the number of the PN code sequence/s being assigned to each transmitter. However, Gudmundson discloses a base station being assigned a set of PN sequences. ( See col.6, lines 3-10) Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to assign each transmitter a set of PN sequences so that the capacity of the transmitted signal is increased.

***Allowable Subject Matter***

5. Claims 2,4,7,9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to T.Ghebretinsae whose telephone number is (703) 305-4777. The examiner can normally be reached on Monday-Friday from 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin, can be reached on (703) 305-4714. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6743.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

T.Ghebretinsae  
2/18/2000.  
TEMESGHEN GHEBRETINSAE  
PRIMARY EXAMINER